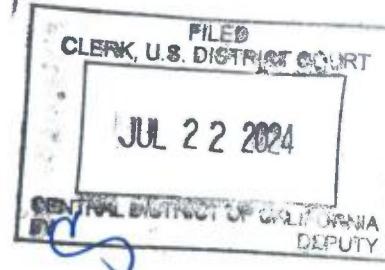


1 David Carmona Tovar  
2 A# 034-506-830  
3 10450 Rancho Road  
4 Adelanto, CA 92301  
5 *Pro Se*



7 **UNITED STATES DISTRICT COURT**  
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 Name: David Carmona Tovar  
10 Petitioner,

Case No. To Be Determined

*ED CV24-1535-FLA (58C)*

11 v.  
12 Field Office Director, Los Angeles Field Office,  
13 United States Immigration and Customs  
14 Enforcement; Director, United States Department  
15 of Homeland Security; Secretary, and  
16 United States Attorney General,  
17 Respondents.

**PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT  
TO 28 U.S.C. § 2241**

19 David Carmona Tovar ("Mr. Carmona") petitions this Honorable Court for a writ of  
20 habeas corpus to remedy Petitioner's prolonged detention by Respondents, mixed questions of  
21 law, and constitutional injury / claims.

22  
23 **TEMPORARY RESTRAINING ORDER**

24 Accordingly, to obtain a TRO, Mr. Carmona must show (1) that he is likely to succeed  
25 on the merits of his claims, (2) that he is likely to suffer irreparable harm in the absence of  
26 preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is  
27 in the public interest. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20  
28 (2008).

**PETITION FOR WRIT OF HABEAS CORPUS**

1        In regards to the first factor, Mr. Carmona is similarly situated to *Doe v. Becerra*, 2024  
2 U.S. Dist. LEXIS 94028 and *Judulang v. Chertoff*, 562 F. Supp 2d 119 who were found to be a  
3 danger to the community by an Immigration Judge (“IJ”) who used decades old convictions to  
4 justify continued prolonged detention. Both Cases were found to be an error of law and Mr.  
5 Carmona believes since the Department of Homeland Security (“DHS”) did not provide  
6 (besides a 34 year old conviction) any other form of current evidence to proof dangerousness,  
7 he has a strong likelihood of success on his merits.

8        Second factor, Mr. Carmona is not only likely to suffer irreparable harm, he *has been*  
9 suffering from irreparable harm since IJ erred as a matter of law in denying bond. This  
10 irreparable harm is primarily based on his challenged detention as arbitrary on due process  
11 grounds. Deprivation of a Fifth Amendment due process right “unquestionably constitutes  
12 irreparable injury.” *Melendres I*, 695 F.3d at 1002; *See also Cortez v. Nielsen*, No. 19-cv-  
13 00754-PJH, 2019 U.S. Dist. LEXIS 59351, 2019 WL 1508458, at \*3 (N.D. Cal. Apr. 5, 2019).

14        Third Factor and fourth factor, “When the government is a party, these last two [Winter]  
15 factors merge.” *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9<sup>th</sup> Cir. 2014). Mr.  
16 Carmona has a strong interest in being granted a constitutionally adequate bond hearing, one  
17 which he did not receive. The Court should find Mr. Carmona did not receive a  
18 constitutionally adequate bond hearing, so that he can meaningfully exercise his due process  
19 right and allowed to go before a neutral decision maker.

20        Furthermore in regards to the last factor, “Any de minimis cost the government may bear  
21 is outweighed by the public’s strong interest in upholding constitutional rights.” *Lewis v.*  
22 *Garland*, 2023 U.S. Dist. LEXIS 231037 at \*12. *See also Preminger v. Principi*, 422 F.3d 815,  
23 826 (9th Cir. 2005) (“Generally, public interest concerns are implicated when a constitutional  
24 right has been violated, because all citizens have a stake in upholding the Constitution.”)

25        **JURISDICTION AND VENUE**

26        This Court has subject matter jurisdiction and may grant relief under 28 U.S.C. § 2241  
27 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 1331 (federal question).  
28 Although 8 U.S.C. § 1226(e) restricts jurisdiction in the federal courts in some respects, it

1 does not limit habeas jurisdiction over constitutional claims or questions of law. Like 8 U.S.C.  
2 § 1226(e), 8 U.S.C. § 1252(a)(2)(B)(ii) restricts jurisdiction only with respect to the  
3 executive's exercise of discretion. It does not limit habeas jurisdiction over questions of law,  
4 including application of law to undisputed facts, sometimes referred to as mixed questions of  
5 law and fact.

6 In *Singh*, the Ninth Circuit held that the government must prove by clear and convincing  
7 evidence that an alien is a flight risk or a danger to the community to justify denial of bond. Id.  
8 at 1197. The Ninth Circuit also held that the application of an incorrect standard of proof at  
9 alien's bond hearing warranted granting habeas relief unless an alien was provided with a new  
10 hearing. Id at 1205-06. Therefore, this Court should retain jurisdiction over Mr. Carmona's  
11 habeas corpus.

12 Because Petitioner challenges his custody, jurisdiction is proper in this Court. While the  
13 Courts of Appeals have jurisdiction to review removal orders through petitions for review, see  
14 8 U.S.C. § 1252(a)(1) and (b), the federal district courts have jurisdiction under 28 U.S.C. §  
15 2241 to hear habeas petitions by noncitizens challenging the lawfulness of their detention. *See,*  
16 *e.g., Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001); *Nadarjah v. Gonzales*, 433 F.3d 1069,  
17 1075-76 (9th Cir. 2006).

18 Venue is proper in the Central District of California pursuant to 28 U.S.C. §  
19 1391(b) and (e) because all substantial part of the events or omissions giving rise to these  
20 claims occurred in this district. All material decisions have been made at the Los Angeles  
21 Field Office of Immigration and Customs Enforcement (ICE), which has authority over  
22 detention of Petitioner and is located in this judicial district. *See Jensen v. Garland*, 2023 U.S.  
23 Dist. LEXIS 78505 (Habeas Corpus § 2241 filed while at the Adelanto Detention Facility  
24 which is under the purview of the Los Angeles FOD); *Lewis v. Garland*, 2023 U.S. Dist.  
25 LEXIS 231037 (same).

26 **PARTIES**

27 Mr. Carmona is a Legal Permanent Resident ("LPR") who is currently detained by  
28 Immigration and Customs Enforcement (ICE) at the Desert View Annex Detention Facility

1 at Adelanto, CA.

2 Respondent Field Office Director for the Los Angeles Field Office of ICE (“LA  
3 FOD”) has the authority to order Petitioner’s release or continued detention. As such,  
4 Respondent LA FOD is a legal custodian of Petitioner.

5 Respondent Director of ICE (“ICE Director”) is the head of ICE, an agency  
6 within the United States Department of Homeland Security that detains and removes certain  
7 noncitizens. Respondent ICE Director is a legal custodian of Petitioner.

8 Respondent Secretary of the United States Department of Homeland Security  
9 (“DHS Secretary”) is responsible for the implementation and enforcement of the immigration  
10 laws and oversees ICE. As such, Respondent DHS Secretary has ultimate custodial authority  
11 over Petitioner.

12 Respondent Attorney General of the United States (“U.S. A.G.”) is the head of  
13 the United States Department of Justice, which oversees the immigration courts. Respondent

14 **All Respondents are sued in their official capacities.**

15 **FACTUAL ALLEGATIONS**

16 I, David Carmona Tovar (“Mr. Carmona”), was born in Tijuana, Mexico.

17 Mr. Carmona entered the United States on or about March 11, 1974.

18 Mr. Carmona’s immigration history is as follows: Mr. Carmona entered the United States at  
19 San Ysidro, California on or about March 11, 1974 as Lawful Permanent Resident. On or  
20 about July 2023, Mr. Carmona renewed his Permanent Residency which is still pending. Since  
21 I arrived at the U.S. I returned to Mexico when I was approximately 9 or 10 years old.

22 Mr. Carmona’s criminal history is as follows: On September 26, 1991, the Superior  
23 Court of California, County of Los Angeles convicted Mr. Carmona of Murder. Mr. Carmona  
24 has paid his debt to Society and has no other convictions as an Adult.

25 Mr. Carmona was granted parole by the Board of Parole of California on December 22,  
26 2022. Governor Newsom also allowed and granted his release and he demonstrated to the  
27 Board of Parole and the Governor that he no longer is a danger to society and had extensive  
28 rehabilitation.

1 ICE lodged a detainer on Mr. Carmona since 1992 and removed detainer on June 12,  
2 2023. ICE was not sure if Mr. Carmona retained US Citizenship through his parents.  
3 Therefore, ICE who did not see Mr. Carmona as a danger then, decided to release Mr.  
4 Carmona into society.

5 Mr. Carmona was out in the community volunteering at non-profit organizations  
6 and beginning to rebuild a productive life. Mr. Carmona continued rehabilitation programs and  
7 complied with all conditions of his parole. He was out for approximately 2 and a half months.

8 Mr. Carmona was detained by Immigration and Customs Enforcement on or  
9 about August 24, 2023. Petitioner has remained in ICE custody since that date.

10 An Immigration Judge ordered Mr. Carmona removed from the United States on  
11 February 26, 2024. Mr. Carmona also had he bond hearing denied by the same IJ on the same  
12 day. Mr. Carmona appealed both decisions (merits and bond denial) by the Immigration Judge  
13 to the Board of Immigration Appeals.

14 On June 17, 2024, the BIA affirmed the denial of Mr. Carmona's merits hearing and  
15 finalized his removal order.

16 On June 28, 2024, the BIA stated on Mr. Carmona's bond appeal, "However, the record  
17 reflects that a final order was entered in the respondent's removal case on June 17, 2024. Thus,  
18 there is now an administratively final order. See 8 C.F.R. §2241.1 (a). At this time, neither an  
19 Immigration Judge nor this Board has authority to set bond conditions because a final order of  
20 removal has been entered in the respondent's case. ORDER: The bond appeal is dismissed as  
21 moot.

22 On July 12, 2024, Mr. Carmona filed a bond request due to changed circumstances  
23 pursuant to 8 C.F.R. § 1003.19(e). Mr. Carmona filed it under 3 new circumstances (1)  
24 appointed a bar panel attorney in the Superior Court of California, County of Los Angeles  
25 pursuant to a motion I filed pursuant to 1473.7, (2) filed a Petition for Review in the Ninth  
26 Circuit Court of Appeals which was accepted and opened as Case No. 24-3856 (3) continued  
27 participation in rehabilitative programming.

28 On July 16, 2024, the Court denied the bond request motion.

1                   Mr. Carmona filed an appeal with the BIA.

2                   **EXHAUSTION WAIVER**

3                   Mr. Carmona has exhausted all available remedies that had the potential to bear fruit.

4                   Mr. Carmona does not believe he needs an exhaustion waiver in terms of his second bond  
5                   appeal pursuant to his changed circumstances because the constitutional injury stems from his  
6                   February 26, 2024, unconstitutional bond hearing.

7                   Regardless, Mr. Carmona will humbly seek the exhaustion waiver for his changed  
8                   circumstances bond denial. The Court may waive the exhaustion requirement if  
9                   “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies  
10                   would be a futile gesture, irreparable injury will result, or the administrative proceedings  
11                   would be void.” *Laing v. Ashcroft*, 370 F.3d at 1000 (9th Cir. 2004). The BIA has already  
12                   stated it does not have the power to grant Mr. Carmona bond as a final removal order has been  
13                   issued.

14                   Continued detention without an exhaustion waiver or constitutionally adequate  
15                   procedural safeguard would essentially turn a blind eye as Mr. Carmona “suffers potentially  
16                   irreparable harm every day that he remains in custody without a hearing, which could  
17                   ultimately result in his release from detention.” *Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139  
18                   (N.D. Cal. 2018) (citation omitted).

19                   Mr. Carmona has been in detention for 11 months and 5 months since his last  
20                   bond hearing which was not constitutionally adequate in violation of his due process right.

21                   Mr. Carmona’s February 26, 2023 bond hearing was not constitutionally  
22                   adequate for the foregoing detailed reasons below and “petitioner’s irreparable harm-based  
23                   argument begs the constitutional questions presented in his petition by assuming that petitioner  
24                   has suffered a constitutional injury.” *Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 U.S. Dist.  
25                   LEXIS 59351, 2019 WL 1508458, at \*3 (N.D. Cal. Apr. 5, 2019).

26                   Furthermore and most evidently because the BIA does not have jurisdiction to  
27                   answer questions of law and constitutional concerns. *See Liu v. Waters*, 55 F.3d 421, 425 (9th  
28                   Cir. 1995) (“the BIA has no jurisdiction to decide questions of the constitutionality of the

1 immigration laws"); *See also Re Fuentes- Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997) (BIA  
2 holding it "must apply the statue as written to the cases that come before us. It is well settled  
3 that we lack jurisdiction to rule on the constitutionality of the Act and the regulations we  
4 administer . . . {E}ven if we were to perceive a constitutional infirmity in the unambiguous  
5 statue before us, we would be without authority to remedy it.") Therefore, the honorable  
6 District Court should waive exhaustion in this case.

7 **LEGAL FRAMEWORK**

8 Mr. Carmona's detention is unjustified and unconstitutional, the IJ was not a neutral  
9 decision-maker, nor was there clear and convincing evidence to support the denial of bond,  
10 in violation of his due process rights. These claims clearly show that the discretionary  
11 process was constitutionally flawed. *See Santosky v. Kramer*, 455 U.S. 745, 754, 102 S. Ct.  
12 1388, 71 L. Ed. 2D 599 (1982). (directing courts to consider certain factors "to determine  
13 whether a particular standard of proof in a particular proceeding satisfies due process").

14 Prolonged detention without a constitutionally adequate bond hearing violates  
15 the Due Process Clause of the Fifth Amendment of the Constitution. The Fifth Amendment's  
16 Due Process Clause provides that "no person shall be . . . deprived of life, liberty, or property,  
17 without due process of law." This specifically "entitles aliens to due process of law in  
18 deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d  
19 (1993).

20 The IJ erred as a matter of law relying solely on past conviction with no evidence  
21 of current dangerousness. DHS did not present any evidence of dangerousness past Mr.  
22 Carmona's 1991 murder conviction. Convictions are insufficient to establish present and  
23 *current* dangerousness *See Judulang v. Chertoff*, 562 F. Supp 2d 119 (holding "Where  
24 petitioner's only relevant conviction for violence is nearly 20 years old and no other evidence  
25 indicating dangerousness was put forward, the IJ's finding of present dangerousness was an  
26 error of law and the denial of bond was inappropriate). Mr. Carmona offense and arrest is 34  
27 and a half years old. Well beyond that of *Judulang*'s.

28 Similarly, in *Doe v. Becerra*, "Although Mr. Doe was convicted more than two

1 decades ago of serious crimes, he has demonstrated rehabilitation efforts while in state  
2 custody. The government has submitted no evidence from after 2001 suggesting that Mr. Doe  
3 remains dangerous.” *Id.* at 40 and that “Mr. Doe’s continued detention without having been  
4 afforded the procedural protections required by the Constitution before such punishment can  
5 be imposed violates his rights under the Due Process Clause of the Fifth Amendment.” *Id.* at  
6 41., 2024 U.S. Dist. LEXIS 94028

7 In order for Mr. Carmona to be held under prolonged periods of time while removal  
8 proceedings are pending. See *Demore v. Kim*, 538 U.S. 510, 530, 123 S. Ct. 1708, 155 L. Ed.  
9 2d 724(2003) (“Detention during removal proceedings is a constitutionally permissible  
10 part of that process.”). But, Due Process requires the government to show by clear and  
11 convincing evidence that the detainee presents a flight risk or a danger to the community at the  
12 time of the bond hearing. *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011); *see also Ngo v.*  
13 *INS*, 192 F.3d 390, 398 (3d Cir. 1999) (“Measures must be taken to assess the risk of flight and  
14 danger to the community on a current basis.”)(emphasis added).

15 To satisfy the clear and convincing standard, overwhelming evidence is not  
16 required. See *Rodriguez v. Robbins*, 804 F.3d 1060, 1090 (9th Cir. 2015) (“*Rodriguez III*”),  
17 cert. Granted by *Jennings v. Rodriguez*, 136 S. Ct. 2489, 195 L. Ed. 2D 821 (U.S. 2016). But  
18 at the bare minimum, some evidence needs to be put forward to justify continued detention.  
19 The Ninth Circuit has stated that there is a difference “between detention being authorized and  
20 being necessary as to any particular person.” *Casas*, 535 F.3d at 949.

21 As stated above, Mr. Carmona was not afforded this constitutional right as DHS  
22 did not provide anything beyond a 30+ years old conviction. More evidently, DHS did not  
23 present a single piece of evidence that even slightly demonstrated Mr. Carmona being a flight  
24 risk. In discussing *Sales v. Johnson*, “Here, the Court is not persuaded that clear and  
25 convincing evidence supports the IJ’s flight risk finding. At neither bond hearing did the  
26 government argue that Petitioner was a flight risk, nor did the government present any  
27 evidence to that effect. In addition, the IJ appeared to deny bond mainly because Petitioner had  
28 been ordered removed, and Petitioner’s claim in his petition for review to the Ninth Circuit

1 was unlikely to succeed.” 323 F. Supp. 3d 1131 at 1141.

2 The IJ found Mr. Carmona a flight risk because the IJ could not see any avenues  
3 of relief for Mr. Carmona, but such reasoning can not stand and is in contrast with binding  
4 Ninth Circuit precedent. *See Singh*, 638 F. 3d at 1025 (“[T]he only evidence the BIA  
5 cited for its affirmance of the IJ’s conclusion that Singh was a flight risk was the fact –  
6 common to all detainees afforded Casas bond hearings – that Singh had already been ordered  
7 removed by a final, administrative order, diminishing his incentive to appear for further  
8 removal proceedings. Although this is a relevant factor in the calculus, it alone does not  
9 constitute clear and convincing evidence that Singh presented a flight risk justifying denial of  
10 bond.”

11 The IJ erred as a matter of law on both grounds, dangerousness and flight risk in  
12 this particular case. The IJ reasoning goes against District Courts, Ninth Circuit and Supreme  
13 Court precedent. Mr. Carmona’s bond hearing was not constitutionally adequate because the  
14 IJ did not hold the government to its burden regardless of his mandatory detention.

15

#### 16 MANDATORY DETENTION

17 Mr. Carmona is being held in custody under § 1226(c) which is mandatory  
18 detention. But even where prolonged detention is permissible – as is the case with  
19 Mr. Carmona – “due process requires ‘adequate procedural protections’ to ensure that the  
20 government’s asserted justification for physical confinement’ outweighs the individual’s  
21 constitutionally protected interest in avoiding physical restraint.” *Singh*, 638 F.3d at 1203  
22 (quoting *Casas-Castrillon v. Department of Homeland Security*, 535 F.3d 942 (9th Cir. 2008),  
23 quoting *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2D 653 (2001)).

24 Mandatory detention under § 1226(c) must be coupled with due process. “Due  
25 process is flexible and calls for such procedural protections as the particular situation  
26 demands.” *Id* at. 334. (alteration in original) (citation omitted). The Ninth Circuit has doubted  
27 “that any statute that allows for arbitrary prolonged detention without any process is  
28 constitutional.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2019). Mr. Carmona’s bond

1 hearing was not constitutionally adequate and it calls for the Court to step in. Moreover, "This  
2 is not a question of how tworeasonable factfinders could weigh the evidence differently."  
3 *Mathon v. Searls*, 623 F. Supp. 3d 203 at \*215.

4 While Mr. Carmona has been held in mandatory condition, he has been forced  
5 to be held in condition worse than some of the time he spent in prison and with less privileges.

6 **CONDITIONS OF DETENTION**

7 Mr. Carmona's detention has become punitive and violates his Eighth Amendment  
8 right. The Supreme Court held more than a century ago that civil detention of a removable  
9 noncitizen violates the Constitution if is punitive. *Wong Wing v. United States*, 163 U.S. 228,  
10 237-38, 16 S. Ct. 977, 41 L. Ed. 140 L. Ed. 140 (1986). At a "bare minimum", noncitizens  
11 subject to civil immigration detention – just like people detained under civil process or  
12 accused but not convicted of a crime – "cannot be subjected to conditions that 'amount to pun  
13 ishment.' See *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004) (quoting *Bell v. Wolfish*, 441  
14 U.S. 520, 535, 99 S. Ct. 1861, 60 L. Ed. 2D 447 (1979)).

15 Mr. Carmona has been detained at the Desert View Annex in Adelanto, CA for  
16 10 months. As a civil detainee, Mr. Carmona is entitled to more considerate treatment than  
17 criminal detainees whose conditions of confinement are designed to punish. See *Youngberg v.*  
18 *Romeo*, 457 U.S. 307, 321-22, 102 S. Ct. 2452, 73 L. Ed. 2D 28 (1982). But the fact of the  
19 matter is that Mr. Carmona has been under treatment worse than that of an inmate.

20 Mr. Carmona has less access to the law library than he did while in prison. He  
21 has less access to yard and night yard. He has less access to his family through visits, phone  
22 calls, video calls, and family visits. He has less access to his attorney. He has less access to  
23 rehabilitation programs. He has less access to food sales and quarterly packages. He has less  
24 access to job offers. He has less access to affordable telecommunications services like phone  
25 calls, tablets, and video calls. He has less access to his own television, personal clothes,  
26 personal shoes, hair cut/trimmer machines, personal storage for legal space, and enough space  
27 to store personal belonging like hygiene, cosmetics, and other similar items. He has less access  
28 to personal music gear like CD's, CD players, Mp3 player, and more. He has less access to

1 legal material as the detention has barred incoming mail from free services like Prison Legal  
2 News. He has less access to medical care without delay and medical accommodations. Mr.  
3 Carmona also engaged in a 3 day hunger strike with about 80+ other detainees protesting the  
4 worsening conditions at the facility.

5 Mr. Carmona has paid his debt to society and is no longer an inmate, he is a civil  
6 detainee, but his detention is worse than some of the time he served while in prison. While  
7 discussing, *Doe v. Becerra*, “In *Jones*, for example, the Ninth Circuit considered the due  
8 process rights of people who had completed prison sentences but remained in detention  
9 pending involuntary civil commitment proceedings. The court emphasized that people  
10 detained under civil rather than criminal process are “entitled to more considerate treatment  
11 than … criminal counterparts are held,” courts “presume that the detainee is being subjected to  
12 ‘punishment.’ and that “If conditions of civil confinement are equivalent to or more restrictive  
13 than criminal detention or civil post-commitment detention, they are presumptively punitive  
14 and the burden shifts to the government “to show (1) legitimate, non-punitive interests  
15 justifying the conditions of the detainee’s confinement and (2) that the restrictions imposed are  
16 presumptively punitive and the burden shifts to the government “to show (1) legitimate, non-  
17 punitive interests justifying the conditions of the detainee’s confinement and (2) that the  
18 restrictions imposed are not excessive in relation to these interests.” *King v. Cty, of L.A.*, 885  
19 F.3d 548, 557 (9th Cir. 2018)(cleaned up) (citing *Jones*, 393 F.3d at 933).

20 Desert View Annex is next to Adelanto processing center which is under a  
21 restricted Covid Court Order. Desert View Annex is under modified Covid restrictions because  
22 of that Court order. Mr. Carmona is being subjected to worse conditions than in prison at the  
23 Desert View Annex. *See Lewis v. Garland*, 2023 U.S. Dist. LEXIS 231037 (stating conditions  
24 and treatment at Adelanto).

25 Mr. Carmona only seeks to remedy his immigration proceedings and is in the  
26 pursuit for avenues of relief, but should not be kept in such conditions. Such conditions  
27 amount to punishment and this Court should mandate the Immigration Court to conduct a  
28 constitutionally adequate bond hearing or should immediately release with appropriate super

1 vision conditions that do not amount to punishment and are less harsh.

2

3 **CLAIM FOR RELIEF**

4 **VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT**

5 The foregoing allegations are realleged and incorporated herein.

6 Mr. Carmona's detention is unjustified and unconstitutional, the IJ was not a  
7 neutral decision-maker, nor was there clear and convincing evidence to support the denial of  
8 bond, in violation of his due process rights. These claims clearly show that the discretionary  
9 process was constitutionally flawed.

10 Mr. Carmona's detention has become punitive and violates his eighth amendment  
11 right.

12

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Petitioner respectfully requests that the Court grant the following relief:

- 15 a. Assume jurisdiction over this matter;
- 16 b. Issue an order pursuant to 28 U.S.C. § 2243 directing Respondents to show cause  
17 why the writ of habeas corpus should not be granted;
- 18 c. Grant the writ of habeas corpus and order Petitioner's immediate release from  
19 custody or in the alternative a constitutionally adequate bond hearing;
- 20 d. Grant any other and further relief as the Court deems just and proper

21

22

23 Date: 7-18-24

Signature: David Carmona

24

David Carmona Tovar

25

A# 034-506-830

26

27

28

David Tovar Carmona  
ID #:45

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